



# Department of Justice

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## JUSTICE DEPARTMENT SUES NEW YORK'S ROCHESTER GAS & ELECTRIC CO. OVER ANTICOMPETITIVE AGREEMENT WITH THE UNIVERSITY OF ROCHESTER

### **Agreement Keeps Customers from Receiving Low-Cost Electricity**

WASHINGTON, D.C. -- In an effort to loosen the stranglehold New York's Rochester Gas & Electric Company has in providing electricity in Rochester, the Department of Justice sued the company today challenging an agreement RG&E entered into with the University of Rochester that prevents RG&E customers from receiving low-cost electricity.

The Department's Antitrust Division said that the agreement deprives some RG&E customers of alternative low-cost electricity, which forces them to pay more for their electricity.

"As the electric industry becomes increasingly deregulated, vigorous antitrust enforcement is absolutely essential to ensure that consumers benefit from competition," said Joel I. Klein, Acting Assistant Attorney General in charge of the Department's Antitrust Division. "This case should send a wake-up call to electric utilities. We will not tolerate private arrangements designed to thwart the introduction of competition into this important industry."

According to the lawsuit, RG&E made threats and offered financial rewards to induce the University of Rochester to

abandon its plan to build a new, efficient power plant in the Rochester area. The agreement also prevented the University from participating in any projects that would provide other current RG&E customers with energy from anyone other than RG&E.

Throughout the U.S., state utility commissions are beginning to rely on competition rather than regulation to set rates where possible for sales of electricity. The New York Public Service Commission allows utilities to deviate from their regulated rates in order to compete for customers who have an alternative source of electricity available.

The Department's complaint, which was filed today in U. S. District Court for the Western District of New York, alleges that RG&E threatened to cut off certain research grants to the University if the plant were built. In addition, if the plant were not built, RG&E promised to give the University hundreds of thousands of dollars for conservation programs, even if the University never undertook those programs. The complaint also alleges that RG&E gave the University an exceptionally low electricity rate as part of the arrangement.

The University was planning to build a "cogeneration" plant, which--at a negligible additional cost--produces electricity as a byproduct of producing steam for heating and cooling campus buildings. At the time the parties entered into the agreement, the University's trustees had voted to replace its aging coal-burning steam plant with a modern and efficient gas-fired cogeneration plant. The complaint alleges that the new plant would have produced inexpensive surplus electricity that the University could have sold in competition with RG&E.

As a result of the illegal agreement, the new plant was never built, and the University's steam is still being produced by a coal plant built in 1929.

In the lawsuit, the Department asked the court to prohibit RG&E from enforcing the existing agreement or offering anything of value to induce a competitor not to compete with RG&E in the sale of electricity or the generation of electricity for that purpose.

Rochester Gas & Electric is located in Rochester, New York and serves more than 300,000 customers in the Monroe County area.

No trial date has been set.

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